

Tuesday, September 27, 2016

The Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, met in regular session at 9:00 AM.

PRESENT: Supervisors: Frank R. Mecham, Bruce S. Gibson, Adam Hill, Debbie Arnold, and Chairperson Lynn Compton

ABSENT: None

THE PLEDGE OF ALLEGIANCE IS LED BY CHAIRPERSON LYNN COMPTON.

Consent Agenda – Review and Approval:

1. This is the time set for consideration of the Consent Agenda.

Chairperson Compton: opens the floor to public comment.

Mr. Nick Franco – Parks and Recreation Director: amends Item No. 20 - Closed Session, under Conference with Real Property Negotiator (17), to correct the negotiating party to read “Paul Ready” not “Dallas Mosier”.

Chairperson Compton: states she will be abstaining from voting on Item No. 10.

The action taken for Consent Agenda items 1 through 16 on the following vote is indicated for each item.

Motion by: Frank R. Mecham

Second by: Bruce S. Gibson

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Compton, Lynn (Chairperson)	x		x (Item No. 10 only)	
Hill, Adam (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Arnold, Debbie (Board Member)	x			

Consent Agenda - Administrative Office Items:

1. Request to approve the agreement with Access Support Network in the amount of \$55,000 for preventive health grant funds from Fund Center 106 – Contributions to Other Agencies. All Districts.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Auditor - Controller - Treasurer - Tax Collector Items:

2. Report of the Annual Fiscal and Compliance Review of establishments subject to the County Transient Occupancy Tax Ordinance for calendar year 2015. All Districts.

The Board approves as recommended by the County Administrative Officer.

3. Submittal of the Health Agency’s Mental Health Services Act Performance Audit report and Health Agency response. All Districts.

Dr. C. Hite: speaks.

The Board approves as recommended by the County Administrative Officer.

4. Submittal of the Internal Audit division's Quality Assurance and Improvement Program Self-Assessment Report and Request for approval of the Internal Audit Charter. All Districts.

Dr. C. Hite: speaks.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Board of Supervisors Items:

5. Request to approve an agreement with the Grover Beach Police Department allocating \$2,000 from District Three Community Project Funds – Fund Center #106 to be used for expenses associated with the Grover Beach Police Department Volunteer Unit. District 3.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Central Services Items:

6. Request to approve a Building Space Lease between the State of California and the County of San Luis Obispo to allow the County Fire Department to continue providing emergency response training at the Camp San Luis Obispo First Responders Drill Grounds, for an additional five (5) year term. District 2.

The Board approves as recommended by the County Administrative Officer.

7. Request to approve a Second Amendment to Lease between the County of San Luis Obispo and Woods Humane Society, Inc. at 875 Oklahoma Avenue in San Luis Obispo. All Districts.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Clerk-Recorder Items:

8. Submittal of a resolution proclaiming September 27, 2016, as "National Voter Registration Day." All Districts.

Dr. C. Hite; Mr. Tommy Gong – County Clerk-Recorder; and Mr. Eric Greening: speak.

The Board approves as recommended by the County Administrative Officer. RESOLUTION NO. 2016-238, adopted.

Consent Agenda - Health Agency Items:

9. Request to approve a FY 2016-17 renewal contract, with an option to renew for two additional years, with Bryan's House in an amount not to exceed \$407,280 to provide substance use disorder perinatal residential treatment services for pregnant and parenting women. All Districts.

The Board approves as recommended by the County Administrative Officer.

Consent Agenda - Public Works Items:

10. Request to approve Amendment No. 9 to a cooperative funding agreement with San Luis Obispo Council of Governments, in the amount of \$437,094; authorize a budget adjustment to increase the appropriation and associated funding for various projects for a total budget adjustment of \$436,894 from Fund Center 230 – Capital Projects; and authorize a budget adjustment, in the amount of \$437,094 from Fund Center 245 – Roads to increase the appropriation and associated funding for various projects. All Districts.

Mr. Eric Greening: speaks.

Chairperson Compton: abstains from voting on this item.

The Board approves as recommended by the County Administrative Officer.

11. Submittal of bid opening report rejecting all bids for the Meridian Fire Station Apparatus Bay

Expansion project, located at 4050 Branch Road, Paso Robles. District 1.

The Board approves as recommended by the County Administrative Officer.

12. Submittal of a resolution authorizing execution of notice of completion and acceptance for the construction of the Eton Road Improvements Project, Cambria. District 2.

The Board approves as recommended by the County Administrative Officer. RESOLUTION NO. 2016-239, adopted.

13. Request approval of Parcel Map CO 04-0156, a proposed subdivision resulting in 2 lots, by David C. and E. Lynn Hixon, which has been received and has satisfied all of the conditions of approval that were established at the public hearing on the tentative map, Templeton. District 5.

The Board approves as recommended by the County Administrative Officer.

14. Submittal of a resolution to appoint Edward M. Reading to the Office of County Surveyor. All Districts.

Mr. Doug Rion – Former County Surveyor: speaks.

The Board approves as recommended by the County Administrative Officer. RESOLUTION NO. 2016-240, adopted.

15. Submittal of a resolution establishing changes to the Traffic Regulation Codes for: no parking zone – Avila Beach Drive and Laurel Street in Avila Beach, E Street in Cayucos, and Oakglen Avenue in Nipomo; no parking and tow away zone – Old County Road in Templeton and Vista Del Rio in Nipomo; no overnight parking and tow away zone – Bennett Way in Templeton; limited parking zone – Crocker Street in Templeton; disabled parking zone – Second Street in Los Osos; and angled parking zone – Thirteenth Street in San Miguel. Districts 1, 2, 3, and 4.

The Board approves as recommended by the County Administrative Officer. RESOLUTION NO. 2016-241, adopted.

16. Submittal of a resolution for the acceptance of Leonard Place, a segment of Richard Avenue, and a segment of Ellis Avenue into the County maintained road system, in the community of Cambria. District 2.

The Board approves as recommended by the County Administrative Officer. RESOLUTION NO. 2016-242, adopted.

Public Comment Period:

17. This is the time set for members of the public to address the Board on matters that are not scheduled on the agenda.

Mr. Eric Greening: addresses a concern with staff working on the Phillips 66 Project when the appropriate fees were not paid by the applicant.

Mr. Ben DiFatta: comments on high salary management positions; and the hiring of a new Los Osos Community Services General Manager.

Ms. Linde Owen: speaks to an upcoming hearing concerning Los Osos sewer service rules and regulations.

Mr. Peter Maly: discusses farming taking place in residential rural areas in Nipomo without proper buffer zones. **No action taken.**

Hearings:

18. Continued hearing to consider an appeal by Michael Peachey for a waiver of the appeal fee and

construction permit processing fees for various permits associated with the construction of six 700 square foot single family rental units located at 164 South Mallagh Street in the community of Nipomo. This item was continued from the August 23, 2016 meeting. District 4.

Board Members: disclose their ex-parte communications relating to this hearing.

Ms. Stephanie Fuhs – Planning and Building: provides the staff presentation (powerpoint). Additionally, amends the resolution in Exhibit A, Finding No. 5, by replacing the word “waiver” with “deferral”.

Mr. Michael Peachey – Appellant: not present.

Chairperson Compton: opens the floor to public comment without response.

Board Members: question the recordation of the deferral agreement and whether an indemnity clause is needed, with Mr. Benjamin Dore – Deputy County Counsel, Ms. Rita Neal – County Counsel and Mr. Bill Robeson – Planning and Building responding.

The Board amends the resolution in Exhibit A, Finding No. 5, by replacing the word “waiver” with “deferral”; and RESOLUTION NO. 2016-243, a resolution partially upholding the appeal by Michael Peachey and partially approving the request by Michael Peachey for a waiver of construction permit processing fees for various permits associated with the construction of six 700 square foot single family rental units located at 164 South Mallagh Street in the community of Nipomo, adopted as amended. Furthermore the Board approves the deferral agreement contained in the staff report.

Motion by: Lynn Compton
Second by: Adam Hill

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Compton, Lynn (Chairperson)	x			
Hill, Adam (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Arnold, Debbie (Board Member)	x			

19.
- Continued hearing to consider an appeal by Janneck Limited (Laetitia) and RRM Design Group of the Planning Commission’s denial of a request for a Vesting Tentative Tract Map and Conditional Use Permit to allow an agricultural cluster subdivision of twenty-one parcels (totaling 1,910 acres) into one hundred and two (102) residential lots and four (4) open space lots, located approximately two miles south of the City of Arroyo Grande and two miles north of the community of Nipomo, on both the eastern and western sides of Highway 101; staff recommends that the Board take no action on Final EIR ED04-233 because CEQA does not apply to projects that are denied. This item was continued from the August 23, 2016 meeting. District 4.

Board Members: disclose their ex-parte communications relating to this hearing.

Mr. Brian Pedrotti – Planning and Building: provides the staff presentation (powerpoint).

Mr. Victor Montgomery – Appellant’s Representative (powerpoint and Caltrans accident data for U.S. 101 in the vicinity of Laetitia Vineyard by Associated Transportation Engineers (ATE)): speaks.

Board Members: address various comments, questions and concerns regarding: the secondary access; the accident data material presented by Mr. Montgomery; and water resources and impacts, with Mr. Pedriotti (geologic map and updated hydrograph for well 11); Mr. Montgomery; Mr. Spencer Harris – Appellant’s Project’s Hydrogeologist; Mr. Gordon Thrupp – County’s Hydrogeologist; and Mr. Tim McNulty – Assistant County Counsel responding.

Chairperson Compton: opens the floor to public comment.

Mr. Jay Hardy – Nipomo Hills Alliance (letter); Mr. Eric Greening; Ms. Linda Richards; Ms. Cherie Fitz-Gerald; Mr. David Richards; Mr. Jose Whitaker; Ms. Linda Chipping – Water Resources Advisory Committee (WRAC) Chairperson; and Mr. Jay Stamets: speak.

Chairperson Compton: states the hearing will be continued following the report out on Closed Session.

Closed Session Items:

20. The Board announces they will be going into Closed Session regarding:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION (Government Code section 54956.9.) It is the intention of the Board to meet in closed session concerning the following items: (1) Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of section 54956.9. Number of potential cases: Three; (2) Initiation of litigation pursuant to paragraph (4) of subdivision (d) of section 54956.9. Number of potential cases: Three.

CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION (Government Code section 54956.9.) It is the intention of the Board to meet in closed session concerning the following items: Existing Litigation (Gov. Code, section 54956.9(a)). (Formally initiated.) (3) PG&E's 2017 General Rate Case A: 15-09-001; (4) Application Filed by PG&E for Retirement of Diablo Canyon Power Plant A: 16-08-006; (5) Bay Area/Diablo Petroleum Co. dba Golden Gate Petroleum v. San Luis Obispo County, et al.;

CONFERENCE WITH LABOR NEGOTIATOR (Government Code section 54957.6.) It is the intention of the Board to meet in closed session to have a conference with its Labor Negotiator, Tami Douglas-Schatz, concerning the following employee organizations: (6) San Luis Obispo Government Attorney's Union (SLOGAU); (7) San Luis Obispo County Employees Association – Trades and Crafts (SLOCEA-T&C); (8) Deputy County Counsel's Association (DCCA); (9) Sheriffs' Management; (10) San Luis Obispo County Probation Peace Officers' Association (SLOCPPOA); (11) Deputy Sheriff's Association (DSA); (12) District Attorney Investigators' Association (DAIA); (13) San Luis Obispo County Probation Managers' Peace Officers' Association (SLOCPMPOA); (14) San Luis Obispo County Employees Association – Public Services, Supervisors, Clerical (SLOCEA – PSSC); (15) Unrepresented Management and Confidential Employees; and (16) Association of San Luis Obispo County Deputy Sheriffs (ASLOCDS).

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code section 54956.8.) It is the intention of the Board to meet in closed session to confer with its real property negotiator concerning the following: (17) Property Description: San Luis Obispo Botanical Garden, 3450 Dairy Creek Road; Party with Whom Negotiating: Dallas Mosier; Instructions to County Negotiator Nick Franco: Lease Terms and Conditions.

Mr. Nick Franco – Parks and Recreation Director: amended (17) during the consent agenda public comment period to correct the negotiating party to read "Paul Ready" not "Dallas Mosier".

Chairperson Compton: opens the floor to public comment without response.

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: no report required as no final action was taken and the Board goes into Open Public Session.

Hearing Continued:

19. Continued hearing, from August 23, 2016, to consider an appeal by Janneck Limited (Laetitia) and RRM Design Group of the Planning Commission's denial of a request for a Vesting Tentative Tract Map and Conditional Use Permit to allow an agricultural cluster subdivision of twenty-one parcels (totaling 1,910 acres) into one hundred and two (102) residential lots and four (4) open space lots, located approximately two miles south of the City of Arroyo Grande and two miles north of the community of Nipomo, on both the eastern and western sides of Highway 101; staff recommends that the Board take no action on Final EIR ED04-233 because CEQA does not apply to projects that are denied. District 4, is brought back.

Chairperson Compton: opens the floor to continue public comment.

Mr. Gary Vavrina; Mr. James Tommey (handout); Mr. Mike McClurer; Mr. Mike Brown – Coalition of Labor, Agriculture and Business (COLAB); Mr. Vern Garcia; Mr. Jeff Eckles – Home Builders

Association of the Central Coast Executive Director; and Ms. Lisen Bonnier: speak.

Board Members: comment on the pending wells on the Dana Foothills; the use of the emergency access/ingress gate; and the concerns from Caltrans and County Fire, with Ms. Aileen Leo – Caltrans Deputy District Director; Mr. Mike Salas – County Fire; Mr. John Janneck – Appellant; Mr. Victor Montgomery – Appellant’s Representative; and Mr. Tim McNulty – Assistant County Counsel responding.

Mr. Montgomery: provides closing statements.

Board Members: address concerns regarding the timing of the proposed project during a drought; the water source for the new development; its uncertainty of long term viability; and the effects on the wells and water supply to neighboring properties.

Supervisor Arnold: suggests a net neutral on the new home’s water use; conditioning non irrigated ag land, with Board Members responding.

On motion by Chairperson Compton, seconded by Supervisor Hill, to deny the appeal based on the water issues, is discussed.

A discussion occurs regarding the language in the findings for denial that pertain to the secondary access. Furthermore, upon review of the findings, the motion maker and second agree to remove Findings B. and E. and remove the second to last sentence in Finding C.

Mr. Montgomery: requests the Environmental Impact Report (EIR) be certified if the appeal is denied, with Board Members and Mr. McNulty responding.

The Board denies the appeal Janneck Limited and RRM Design Group based on the water issues; amends the resolution in Exhibit A, by removing Finding B. and re-naming subsequent findings as B. through E.; removing the second to last sentence in Finding C.; removing Finding D. (previously E.); and renaming subsequent finding as D. Furthermore, RESOLUTION NO. 2016-244, a resolution denying the appeal by Janneck Limited and RRM Design Group, affirming the decision of the Planning Commission, and denying the application of Janneck Limited for vesting tentative Tract Map and Conditional Use Permit (SUB2003-00001), adopted as amended.

Motion by: Lynn Compton

Second by: Adam Hill

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Compton, Lynn (Chairperson)	x			
Hill, Adam (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Arnold, Debbie (Board Member)		x		

On motion duly made and unanimously carried, the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, does now adjourn.

I, **TOMMY GONG**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, September 27, 2016, by the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts.

TOMMY GONG, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors

By: /s/ Annette Ramirez, Deputy Clerk-Recorder

DATED: September 29, 2016